

RICHARD R. WILSON, P.C.

Attorney at Law

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rrwilson@atlanticbbs.net

851 Twelfth Street
Oakmont, PA 15139

Of Counsel to:

Vuono & Gray LLC

2310 Grant Building

Pittsburgh, PA 15219

(412) 471-1800

(412) 471-4477 FAX

October 27, 2005

Hon. Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423



7 215100 215101
RE: Docket No. 33476 C&NC, LLC - Acquisition Exemption - Indiana Hi-Rail Corporation ; and Docket No. 33475, C&NC Railroad Corporation - Lease and Operation Exemption - Lines of Norfolk and Western Railway Company and Indiana Hi-Rail Corporation; **Petition of RMW Ventures, LLC and C&NC Railroad Corporation for Expedited Confirmation and Correction Regarding Rail Common Carrier Service Rights to Integrity Metals, Inc.**

Dear Secretary Williams:

Enclosed please find the original and ten copies of the Petition of RMW Ventures, LLC and C&NC Railroad Corporation for Expedited Confirmation and Correction Regarding Rail Common Carrier Service Rights to Integrity Metals, Inc. to be filed in the above captioned proceedings. I have also included a check in the amount of \$200 for the filing fee.

Please time stamp and date the additional copy of this letter and return it to the undersigned in the enclosed self addressed, stamped envelope provided. If there are any questions, please contact the undersigned.

Very truly yours,

RICHARD R. WILSON, P.C.

Richard R. Wilson/bab

Richard R. Wilson, Esq.

Attorney for RMW Ventures, LLC and
C&NC Railroad Corp.

RRW/bab

Enclosures

xc: C&NC Railroad Corp.

ENTERED
Office of Proceedings
NOV 7 - 2005
Part of
Public Record

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Vuono & Gray LLC

2310 Grant Building

Pittsburgh, PA 15219

(412) 471-1800

(412) 471-4477 FAX

851 Twelfth Street
Oakmont, PA 15139

November 1, 2005

Hon. Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423

RE: Docket No. 33476 C&NC, LLC – Acquisition Exemption – Indiana Hi-Rail Corporation; and Docket No. 33475, C&NC Railroad Corporation – Lease and Operation Exemption – Lines of Norfolk and Western Railway Company and Indiana Hi-Rail Corporation; **Petition of RMW Ventures, LLC and C&NC Railroad Corporation for Expedited Confirmation and Correction Regarding Rail Common Carrier Service Rights to Integrity Metals, Inc.**

Dear Secretary Williams:

Enclosed please find a check in the amount of \$200 for the additional filing fee in the above captioned matters.

If there are any questions, please contact the undersigned.

Very truly yours,

RICHARD R. WILSON, P.C.



Richard R. Wilson, Esq.

Attorney for RMW Ventures, LLC and
C&NC Railroad Corp.

RRW/bab
Enclosure

ENTERED
Office of Proceedings

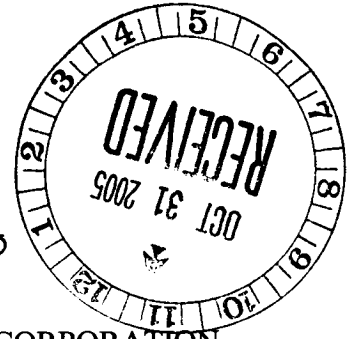
NOV 7 - 2005

Part of
Public Record

Before the
SURFACE TRANSPORTATION BOARD

DOCKET NO: 33476

-215100



C&NC, L.L.C.- ACQUISITION EXEMPTION – INDIANA HIGH-RAIL CORPORATION

DOCKET NO: 33475

-215101

C&NC RAILROAD CORPORATION – LEASE AND OPERATION EXEMPTION – LINES
OF NORFOLK AND WESTERN RAILWAY COMPANY AND INDIANA HI RAIL
CORPORATION

**PETITION OF RMW VENTURES LLC AND C&NC RAILROAD CORPORATION
FOR EXPEDITED CONFIRMATION AND CORRECTION REGARDING RAIL
COMMON CARRIER SERVICE RIGHTS TO INTEGRITY METALS, INC.**

RICHARD R. WILSON, ESQ.
Attorney for RMW Ventures LLC and
C&NC Railroad Corp.
Pa. I.D. #25661
127 Lexington Avenue, Suite 100
Altoona, PA 16601
(814) 944-5302
(814) 944-6978 fax

Dated: October 27, 2005

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Office of Proceedings
NOV 7 2005
Part of
Public Record

Before the
SURFACE TRANSPORTATION BOARD

DOCKET NO: 33476

C&NC, L.L.C.- ACQUISITION EXEMPTION – INDIANA HIGH-RAIL CORPORATION

DOCKET NO: 33475

C&NC RAILROAD CORPORATION – LEASE AND OPERATION EXEMPTION – LINES
OF NORFOLK AND WESTERN RAILWAY COMPANY AND INDIANA HI RAIL
CORPORATION

**PETITION OF RMW VENTURES LLC AND C&NC RAILROAD CORPORATION
FOR EXPEDITED CONFIRMATION AND CORRECTION REGARDING RAIL
COMMON CARRIER SERVICE RIGHTS TO INTEGRITY METALS, INC.**

I. INTRODUCTION

On October 31, 1997, the Surface Transportation Board, in Finance Docket No. 33476, granted an Acquisition Exemption to C&NC, L.L.C., a noncarrier, to acquire a line of railroad owned and operated by R. Franklin Unger, Trustee of the Indiana High-Rail Corporation (“IHRC”) from Connersville, Indiana (Milepost 0.0) to Beesons, Indiana (Milepost 5.2), a distance of approximately 5.2 route miles. C&NC Railroad Corp obtained STB exemption authority to lease and operate this rail line on and after October 31, 1997 in STB Finance Docket No: 33475. These transactions were part of a series of transactions by which C&NC Railroad Corp and RMW Ventures LLC ¹and related companies acquired three (3) rail lines for continued

¹ C&NC Railroad Corp was subsequently merged into RMW Ventures LLC on or after March 10, 1998 under authority granted by the STB in Finance Docket No: 33541.



rail freight service to Cohen Brothers subsequent to the transfer of the 1.1 +/- mile section of track to WVRC.

Subsequent to the assignment of these trackage rights by IHRC, these rights were used by C&NC to provide freight rail service on an occasional basis to Cohen Brothers, Inc. in December 1998 and in January, March and April 1999 in return for WVRC FRA engineer certification training by C&NC. In more recent years, Cohen Brothers has not used rail service.

However, recently, Cohen Brothers, Inc. (now reorganized as Integrity Metals, Inc.) has requested C&NC to resume common carrier freight service and has offered to ship a significant amount of traffic by rail on a regular monthly basis which C&NC would very much like to handle. Nonetheless, WVRC does not wish to serve Integrity Metals nor renew the trackage agreement due to the fact that WVRC does not wish to become subject to additional FRA safety regulations which would accompany the use of its rail line for railroad freight operations. Railroad tourist operations are subject to less extensive FRA safety regulation than are freight railroads. See 49 C.F.R. §209 Appendix A and Exhibit C. To facilitate the resumption of freight rail service on WVRC rail via a renewed trackage agreement, C&NC has offered to assume responsibility for various maintenance obligations on the 1.1 +/- mile section of WVRC track and to aid and assist WVRC in obtaining an appropriate FRA waiver of increased regulation which might otherwise result from resumption of freight service on the line.

WVRC has questioned C&NC's right to provide common carrier rail freight service over its line of railroad notwithstanding the fact that (1) subsequent to WVRC's acquisition of this section of track in 1989, IHRC continued to provide common carrier rail service to Cohen Bros. until 1997; (2) common carrier freight rail service was never abandoned by IHRC; and

rail operations from the Norfolk Southern Railway Company and the Trustee of IHRC under Chapter 11 of the Bankruptcy Code. (See Indiana High-Rail Corporation, Debtor-Abandonment- in Putnam and Vanwort Counties, OH, and Adams County, IN, STB Finance Docket No. AB-336 (sub No. 6), August 20, 1997.)

Subsequent to the October 31, 1997 service date in these Dockets, on December 8, 1997 counsel for the IHRC bankruptcy trustee sent a notice of IHRC's assignment of a third-party agreement to Petitioner which consisted of a June 2, 1993 trackage rights agreement between IHRC and Whitewater Valley Railroad. (See Exhibit A) Under this trackage agreement, IHRC was granted freight service rights to operate over Whitewater Valley Railroad Company ("WVRC") from the point of interchange at milepost 0.0 in Connersville, Indiana, to serve Cohen Brothers Metals Company (now Integrity Metals, Inc.) located approximately 1.1 +/- miles south of that point on the line of WVRC.

II. C&NC REQUEST FOR CONFIRMATION OF SERVICE RIGHTS TO INTEGRITY METALS


WVRC operates the rail line south of Connersville, Indiana, as a tourist or excursion railroad and as indicated by the documents attached hereto as Exhibit B, acquired the 1.1 +/- mile section of track immediately south of C&NC's line in 1989 from IHRC and entered into several switching agreements with IHRC and eventually negotiated the trackage rights agreement set forth at Exhibit A. Based on the documentation obtained by Petitioners from IHRC set forth at Exhibit B, no STB authorization was obtained by WVRC to provide common carrier freight service on the 1.1 +/- mile section of line and the June 2, 1993 trackage rights agreement was intended to permit IHRC and its successors and assigns to continue to provide common carrier

(3) WVRC did not obtain ICC authority in 1989 to provide freight rail service over this section of track. Accordingly, Petitioners respectfully request that the Board review the attached documentation and confirm that C&NC acquired common carrier service rights to serve Integrity Metals incident to their 1997 acquisition exemption transactions and the assignment by the IHRC Trustee of the June 2, 1993 Trackage Rights Agreement. To the extent that the Board verifies that such common carrier service rights were acquired by C&NC and RMW Ventures LLC as part of their respective acquisition exemptions, Petitioners respectfully request that their exemption notices be corrected to reflect that in addition to the 5.2 mile line of railroad, Petitioners acquired the right to provide rail freight service via incidental trackage rights over WVRC for a distance of 1.1 +/- miles to serve Integrity Metals, Inc.

Expedited consideration of this matter is requested from the Board inasmuch as Integrity Metals wishes to resume rail freight service at the earliest possible date.

Respectfully submitted,

RICHARD R. WILSON, P.C.


By: 
Richard R. Wilson, Esq.
Attorney for C&NC Railroad Corporation

RICHARD R. WILSON, P.C.
127 Lexington Avenue, Suite 100
Altoona, PA 16601
(814) 944-5302
Dated: October 27, 2005

VERIFICATION

I, Spencer N. Wendelin, under penalty of perjury state that the foregoing is true and correct.

Executed on 26 - 10, 2005.



Spencer N. Wendelin

Hickam and Hickam

Attorneys at Law

TEN SOUTH MAIN BUILDING

POST OFFICE BOX 48

Spencer, Indiana 47460

TELEPHONE 812 828-2221
FAX 812 828-0368

WILLIS HICKAM (1882-1927)
WILLIS HICKAM (1894-1978)
ELLIOTT HICKAM
RICHARD W. LORENZ
C. THOMAS SPENCER
JOHN R. MCKAY*

*ALSO ADMITTED IN NEW YORK, VIRGINIA
AND THE DISTRICT OF COLUMBIA

December 8, 1997

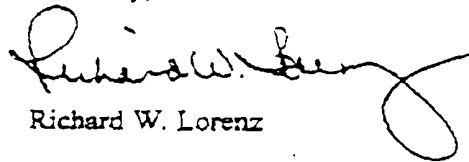
RE: Notice of Indiana Hi-Rail's Assignment of
Certain Third Party Agreements

Dear Sir or Madam:

I am counsel for the Trustee in Bankruptcy, R. Franklin Unger, for Indiana Hi-Rail Corporation and Sagamore National Corporation and am enclosing a Notice of Assignment covering the agreements between you and Indiana Hi-Rail. C&NC Associated Investors, Inc. and its designees will be assuming the contracts and agreements in connection with those rail lines on December 19, 1997 at 12:01 a.m.

If you have any questions please direct them to Tim Yaeger at 765-825-0349.

Sincerely,



Richard W. Lorenz

EXHIBIT A

WHEREAS, pursuant to the Purchase Agreement with C&NC Associated Investors, Inc. and its designees, IHRC will assign, delegate and transfer all of its rights, duties and obligations contained in the contract(s) and agreement(s) listed below.

NOW THEREFORE, please take notice that:

1. The contracts listed below are hereby assigned and delegated to C&NC Railroad Corporation as of December 19, 1997 at 12:01 a.m.

2. The Designee shall assume and undertake, without recourse to IHRC, all liabilities, duties, covenants, commitments, and other obligations of IHRC with respect to such contracts from and after December 19, 1997.

Dated: December 8, 1997

Indiana Hi-Rail Corporation
Sagamore National Corporation

BY: 

CONTRACTS AND AGREEMENTS:

AGREEMENT BETWEEN INDIANA HI-RAIL CORPORATION AND WHITEWATER VALLEY RAILROAD

1. June 2, 1993, Trackage Rights Agreement, Connersville, Indiana

3. COMPENSATION

(a) IHRC shall compensate WVRR at a flat rate of \$1500 (one thousand five hundred dollars) for each of the first twelve month periods. *1st PAYMENT June 2, 1993 - 2nd PAYMENT June 2, 1994*

(b) In the event of IHRC applying for abandonment of its Connersville operation during the term of this Agreement, IHRC shall grant WVRR right of first right of refusal to purchase connection to CSXT at Connersville, Indiana. *Sub 7/1*

4. OPERATING COMPLIANCE

IHRC shall be solely responsible for its operations over the Rail Line and shall conduct said operations in compliance with all applicable Federal, State, or Local rules, regulations and ordinances. If any failure by IHRC to comply with such ordinances, rules, and regulations results in any fine, penalty, cost, or charge being assessed, imposed, or charged against WVRR, then IHRC will reimburse and indemnify WVRR for or on account of such fine, penalty, cost, or charge.

IHRC shall notify WVRR of any train movement on Saturdays or Sundays and shall not interfere with WVRR's scheduled operations.

5. TERM

The term of this agreement shall be effective June 1, 1993 and expire December 31, 1994.

6. NOTICE

All written communications between the parties concerning this Agreement should be addressed as follows:

To IHRC: Indiana Hi-Rail Corporation
4301 N. St. Rd. 1
Connersville, IN 47331

To WVRR: Whitewater Valley Railroad
255 Eastern Avenue P.O. Box 406
Connersville, IN 47331 *Sub 7/1*

7. LIABILITY

Each party shall be responsible for the acts or omissions of its officers, agents, employees, lessors, subsidiaries, affiliates, successors, and assigns in regard to any and all

liabilities arising under this Agreement. Whenever any loss of, damage to, or destruction of property, or injury to or death of any person or persons resulting from, arising out of, incidental to, or occurring in connection with this Agreement involves only trains, locomotives, cars, or equipment operated by or in the possession of IHRC, IHRC will assume all liability therefrom and bear all cost and expense in connection therewith, including all cost, expense, and liability, and will forever protect, defend, indemnify, and save harmless WVRR and its officers, agents, employees, lessors, subsidiaries, affiliates, successors, and assigns from and against any such liability, cost, and expense.

8. INSURANCE

IHRC will procure and maintain in effect during the term of this Agreement a policy or policies of insurance covering the liability to which IHRC is or may be subject under this Agreement for operating on the trackage of WVRR. Such insurance will provide minimum limits of Five Million Dollars (\$5,000,000.00) per occurrence. Upon request, IHRC shall provide WVRR a certificate of insurance providing proof that the insurance required under this item is in full force and effect during the term of this Agreement.

9. ASSIGNMENT AND SOLE BENEFIT

This Agreement may be assigned by IHRC only with the written consent of WVRR, signed by an authorized officer, which consent will not be unreasonably withheld. This Agreement will be binding upon and inure to the benefit of successors and assigns of WVRR and successors and permitted assigns of IHRC.

10. NON-WAIVER *

At any time during the term of this Agreement, either party may waive any default of the other party under this Agreement without affecting or impairing any right arising from any other default under this Agreement.

11. AMENDMENT

This Agreement may be modified only by an instrument in writing, signed by an authorized officer of WVRR and of IHRC.

12. FORCE MAJURE

In the event either party shall be prevented from performances of this Agreement due to reasons wholly beyond its control such as, but not limited to, war, riot, civil insurrection, strike, lockouts, explosion, fire or Acts of God, then the non performance on the part of the effected party shall not constitute a breach of this Agreement.

* ENCL

13. CAPTIONS

The captions of the articles herein are inserted for convenience only and shall in no way expand, restrict or modify the terms and provisions of any clause hereof.

14. GOVERNING LAW

This Agreement shall be construed and enforced under the laws of the State of Indiana.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate, each part being an original, as of the day and year first above written.

Indiana Hi-Rail Corporation

By Timothy A. Jagan

Title Sales Manager

Whitewater Valley Railroad

By Lawrence C. Shurtless

Title General Manager

INDIANA HI-RAIL CORP. INDIANA HI-RAIL CORPORATION STATE ROAD 1 NORTH CONNERSVILLE, IN 47331		UNION COUNTY NATIONAL BANK LIBERTY, INDIANA 711-546 719	
CHECK NO. No. 009275 1523-9275-17		DATE 06/02/1993 ** One Thousand Five Hundred Dollars and 00 Cents **	
PAY TO THE ORDER OF WHITEWATER VALLEY RAILROAD 255 EASTERN AVE. CONNERSVILLE IN 47331		AMOUNT *****1,500.00 NOT VALID AFTER 120 DAYS <i>James R. Brown</i> AUTHORIZED SIGNATURE	

009275 1523927517 060293 150000

Amendment No. 1 to Trackage Rights Agreement dated June 2, 1993.

IN WITNESS WHEREOF, the parties hereto amend this Agreement between IHRC and WVRR as follows:

5. TERM

The term of this Agreement will be extended through December 31, 1997.

Whitewater Valley Railroad

By: Maurice E. Zinsley

Title: PRESIDENT

Date: DECEMBER 29, 1995

Indiana Hi-Rail Corporation

By: Timothy A. Zeger

Title: AVP

Date: December 29, 1995

*Spence -
Please review
and comment
P*

AGREEMENT

This Agreement is made and entered into this twentieth day of June, 1995, by and between Indiana Hi-Rail Corporation, an Indiana Corporation (hereinafter "IHRC"), and Whitewater Valley Railroad, and Indiana Corporation (hereinafter "WVRR").

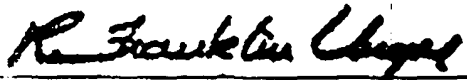
IHRC agrees to furnish classroom and field training required by the F.R.A. for the WVRR Engineer Certification Program.

WVRR agrees to provide trackage rights to IHRC to directly serve Cohen Brothers Metals. Trackage rights will be provided at no charge to IHRC from June 2, 1995, through December 31, 1997, in exchange for the Engineer Certification Program furnished by IHRC.


A separate trackage rights agreement covering this period of time will be executed between WVRR and IHRC.

In witness whereof, the parties hereto have caused this agreement to be executed in duplicate, each part being an original, as of the day and year first above written.

Signature:


R. Franklin Unger - Trustee
Indiana Hi-Rail Corporation

Signature:


Maurice E. Hensley, President
Whitewater Valley Railroad

Amendment No. 1 to Trackage Rights Agreement dated June 2, 1993.

IN WITNESS WHEREOF, the parties hereto amend this Agreement between IHRC and WVRR as follows:

5. TERM

The term of this Agreement will be extended through December 31, 1997.

Whitewater Valley Railroad

By: Maurice E. Hensley

Title: PRESIDENT

Date: DECEMBER 29, 1995

Indiana Hi-Rail Corporation

By: Timothy A. Jones

Title: AVP

Date: December 29, 1995

SWITCHING AGREEMENT

THIS AGREEMENT is made and entered into this 17 day of JUNE, 1990, by and between INDIANA HI-RAIL CORP. ("IHRC"), a Indiana corporation and WHITEWATER VALLEY RAILROAD CO., an Indiana non-for-profit corporation (hereinafter "WWVR").

W I T N E S S E T H:

WHEREAS, IHRC and WWVR are parties to a purchase agreement, dated December 13, 1989, governing the purchase by WWVR of IHRC's line of railroad between M.P. 67.8 and M.P. 69.0 in Connersville, Fayette County, Indiana (hereinafter the "Purchase Agreement"); and

WHEREAS, the Purchase Agreement provides that WWVR and IHRC will enter into an agreement to govern switching of cars, loaded and empty; for any customer on the line segment; and

WHEREAS, to reduce the administrative and other overhead costs, WWVR desires IHRC to perform on behalf of WWVR certain settlement and other functions, and IHRC is willing to perform such functions under the terms and conditions set forth in this Agreement;

NOW THEREFORE, in consideration of the premises, the mutual covenants, and the other good and valuable considerations set forth herein, IHRC and WWVR agree as follows:

1. Delivery To/From. For cars moving between IHRC and WWVR, IHRC will deliver cars, loaded and empty, to WWVR and WWVR will deliver cars, loaded and empty, to IHRC at designated track of WWVR at Connersville, Indiana, as shown on the attached drawing, dated January 4, 1990 (hereinafter "Setoff Track"). WWVR hereby grants to IHRC solely for delivery and pickup purposes the right to use the Setoff Track. IHRC will not serve directly from the Setoff Track with its own trains and crews any shippers or receivers located on the Setoff Track nor will IHRC have any right to construct any switches from the Setoff Track.

2. Use of Setoff Track.

(a) The use by IHRC of the Setoff Track pursuant to this Agreement will be subject to the rules and requirements of WWVR and to the control and under the instructions of the superintendent or other proper operating officer of WWVR. IHRC will have equal rights with WWVR in and to the use of the Setoff Track for delivery and pickup purposes and WWVR and IHRC will use the Setoff Track so as to cause the least practicable interference with, interruption of, and danger or delay to the operations of the other party upon the Setoff Track. In placing or leaving cars on the Setoff Track, WWVR and IHRC will place or leave cars in such position as not to obstruct or interfere unreasonably with operation or use of the Setoff Track for purposes other than delivery or pickup or with operations or use of any other trackage.

(b) WWVR will control the maintenance of the Setoff Track and will maintain the Setoff Track at least to the minimum safety requirements for Class I track as specified in the Federal Railway Administration Safety Standards of October 16, 1972, as amended.

(c) IHRC will operate upon the Setoff Track only so long as the physical condition of the Setoff Track is such that the Setoff Track can be used safely and conveniently by IHRC. If at any time during the term of this Agreement, any portion of the Setoff Track over which IHRC may be required to operate to deliver or pickup with WWVR is out of repair or becomes unfit or unsafe for such operation, IHRC may decline to deliver or pickup or operate over the Setoff Track without liability to WWVR for breach of this Agreement or otherwise until WWVR places the Setoff Track or causes the Setoff Track to be placed in good repair for safe and convenient operation. WWVR agrees to provide for such repairs as soon as reasonably possible under the circumstances.

(d) If WWVR's or IHRC's use of the Setoff Track for the purpose of delivery and pickup pursuant to this Agreement is disrupted or traffic is delayed at any time for any cause, neither WWVR nor IHRC will have any claim against the other party for liability for loss or damage of any kind resulting from any such interruption or delay.

(e) Nothing in this Agreement constitutes or will operate as a waiver of IHRC's right to hold cars prior to delivery pickup for payment of all charges due it or of IHRC's right to invoke or participate in any lawful embargo.

4. Equipment. (a) No equipment will be operated by IHRC or WWVR on or over the Setoff Tack in violation of the Federal Safety Appliance Acts, or any other acts or statutes, Federal or state, or of any orders, rules, or regulations of the Interstate Commerce Commission or the Federal Railroad Administration. IHRC and WWVR each will be solely responsible for the consequences of any failure on its part to comply fully with such acts, orders, rules, and regulations, and IHRC and WWVR each will have the right to refuse to accept from the other party hereto any equipment, including foreign equipment in use by such other party, which may not meet the requirements of all such acts, orders, rules, and regulations. If any failure by IHRC or WWVR to comply with such acts, orders, rules, and regulations results in any fine, penalty, cost, or charge being assessed, imposed, or charged against the other party, the party which failed to comply promptly will reimburse and indemnify the other party for or on account of such fine, penalty, cost, or charge. Upon receipt of notice of any such assessment, imposition, or charge, the party which failed to comply will, if it chooses to defend such action, pay all expenses of such defense at its sole expense.

Whitewater Valley Railroad will be responsible for inspecting every car that it receives from Indiana Hi-Rail. Any damage that is noted at this inspection must be brought to the immediate attention of Indiana Hi-Rail. Whitewater Valley will be responsible for any damage that occurs on it's property. If Indiana Hi-Rail receives a car back from Whitewater Valley, and our inspection notes that the car is damaged and such damage had not been brought to the attention of Indiana Hi-Rail upon Whitewater Valley's inspection, then Whitewater Valley will be responsible for the costs associated with repairing that car.

Whitewater Valley Railroad may make repairs to cars subject to this agreement only on cars damaged on Whitewater Valley Railroad Track. All repairs are to be made according to AAR accepted practice and to be inspected by INDIANA HI-RAIL CORPORATION for acceptance.

Whitewater Valley Railroad may waive making repairs; and repairs will be made by INDIANA HI-RAIL CORPORATION and billed to Whitewater Valley Railroad at rates established by AAR for those repairs.

5. Delivery and Pickup. WWVR agrees to pickup cars spotted on Setoff Track within 24 hours of notice by IHRC that cars are spotted on Setoff Track. WWVR agrees to spot cars on Setoff Track for IHRC within 24 hours of release of car by any customer on line segment. Failure to comply with this section may result in WWVR being assessed a \$20 per day car penalty by IHRC for each car in violation. Such penalty will be deducted from the switch allowance as covered in section 7.

6. Wrecks. Whenever there has been an accident or incident on the Setoff Track which requires the rerailing of rolling stock or the services of a wrecking crew or wrecking train, IHRC and WWVR will perform or cause to be performed the rerailing of equipment which is in their respective possession and control at the time of the wreck and WWVR will make repairs to the roadbed, track, or appurtenant structures necessary to restore safe rail operations. The cost and expense of such services and any loss, cost, liability, or expense of such services and any loss of, damage to, or destruction of property or from the injury to or death of any person or persons resulting either from such accident or incident or from the performance of such services will be apportioned in accordance with the provisions of Article 12 of this Agreement. Unless otherwise agreed by the parties hereto, all locomotives, cars, and equipment and salvage therefrom picked up and removed which is owned by, under the management and control of, or used by IHRC at the time of such wreck will be retained by or delivered promptly to IHRC, and all such locomotives, cars, equipment, and salvage owned by, under the management and control of, or used by WWVR at the time of such wreck will be retained by or delivered promptly to WWVR.

7. Handling Allowance. (a) IHRC will pay to WWVR for each car handled by IHRC in revenue service, delivered to or received from WWVR pursuant to this Agreement at Connersville, and originated or terminated by WWVR on its line between M.P. 69.0

and M.P. 67.8 and delivered to/from CSXT at Connersville, Indiana: \$150 per car, and delivered to/from NS at New Castle, Indiana: \$50 per car.

(b) Said allowance will be effective on the date of commencement of WWVR's purchase and operation of the Line pursuant to the Purchase Agreement, will be subject, at the election of IHRC or of WWVR, to any or all Rail Cost Adjustment Factor increases (or increases according to another index agreed upon by WWVR and IHRC), and may be changed at any time by agreement of WWVR and IHRC (and WWVR and IHRC agree that they will, at the request of the other party, confer in good faith, at reasonable times and at a location convenient to the party not requesting the discussion, to discuss any changes to the charges desired by the other party); provided, however, that in addition to the handling allowance provided in Paragraph (a) of this Article, WWVR may publish at its sole discretion any additional charges for services it provides on the Line.

8. Settlement. IHRC will perform revenue settlement for all cars handled between IHRC and WWVR pursuant to this Agreement and handled by WWVR on the Line. On the fifteenth day of each month, or on such other days as the parties mutually agree, IHRC will forward to WWVR, two statements of allowances due WWVR by IHRC for the previous calendar month's traffic along with a check governing payment of same.

9. Notices. All written communications between the parties under this Agreement should be addressed as follows:

To IHRC:

Indiana Hi-Rail Corporation
Rt. 1
Connersville, IN 47331

To WWVR:

Whitewater Valley Railroad
P.O. Box 406
Connersville, IN 47331

10. Demurrage. Indiana Hi-Rail will be assessing demurrage charges against Cohen Brothers, or any other shipper which is served by Indiana Hi-Rail per this agreement. Indiana Hi-Rail expects payment of all demurrage bills applied to these customers, irregardless of whether or not such demurrage bills were a result of movement delays on behalf of Whitewater Valley. It will be the responsibility of Whitewater Valley and any customer it serves on behalf of Indiana Hi-Rail to work out car movement problems and associated demurrage charges between themselves.

All payments for demurrage on cars originating or terminating on the Line and handled pursuant to this Agreement will accrue to IHRC, and it will be the obligation of IHRC to bill customers for and collect all such payments.

11. Weighing. Scale fees for weighing of cars interchanged pursuant to this Agreement will be the responsibility of and will be paid to IHRC. Notwithstanding the above, WWVR may, at its election, publish and collect charges for scale fees for weighing cars on its own scales. It is expressly understood that as a switching carrier, IHRC is not required to scale cars.

12. Liability. (a) The responsibility of the parties to this Agreement as between themselves for loss of, damage to, or destruction of property, excluding lading moving under a contract of carriage, and for injury to or death of any person or persons resulting from, arising out of, incidental to, or occurring in connection with this Agreement will be determined as follows:

(i) Whenever any such loss involves only trains, locomotives, cars, or equipment operated by or in the possession of one of the parties hereto, that party will assume all liability therefore and bear all cost and expense in connection therewith, including all cost, expense, and liability arising under Articles 6 of this Agreement, and will forever protect, defend, indemnify, and save harmless the other party and its officers, agents, employees, lessors, parent corporation, subsidiaries, affiliates, successors, and assigns from and against any such liability, cost, and expense;

(ii) Whenever any such loss involves trains, locomotives, cars or equipment operated by or in the possession of both IHRC and WWVR, IHRC and WWVR each separately will assume all liability, cost, and expense for loss of or damage to its trains, locomotives, cars, and equipment and for injury to and death of its and its parent's, subsidiaries', affiliates', and lessors' officers, agents, and employees. All liability, cost, and expense for injury to and death of any other person or persons and for loss of, damage to, and destruction of all other property and all cost, expense, and liability arising under Article 6 of this Agreement will be borne equally by IHRC and WWVR; and

(iii) Each party hereto will bear all loss, damage, and expense for which it is responsible pursuant to this Agreement. Such party will forever indemnify and save harmless the other party and the other party's officers, agents, employees, successors, assigns, parent corporation, subsidiaries, affiliates, and lessors from and against all liability and claims of whatever kind or nature by reason thereof and will pay, satisfy, and discharge all judgments that may be rendered by reason thereof and all costs, charges, and expenses incident thereto. The responsibility undertaken pursuant to this Article is without respect to fault, failure, negligence, misconduct, malfeasance, or misfeasance of either party.

(b)(i) Except as provided in the last sentence of this Subparagraph, liability for loss and damage to lading moving under a contract of carriage will be apportioned between IHRC and WWVR in accordance with all applicable rules and procedures of the Association of American Railroads' Freight Claim and Damage Prevention Division (hereinafter the AAR Freight Claim Division) including its Rules of Order, Principles and Practices, Freight Claim Rules, and prior arbitration decisions interpreting or construing any of them (hereinafter collectively AAR Rules and Procedures). WWVR will be bound by said AAR Rules and Procedures whether or not WWVR becomes a member of the AAR Freight Claim Division. WWVR will assume all liability, if any, for loss or damage to lading that (1) does not occur while the lading is in IHRC's possession, and (2) does not arise from or in connection with any act of or omission by IHRC; and

(ii) In the event of any dispute about apportionment of liability under this Paragraph, IHRC and WWVR will request such dispute will be arbitrated in accordance with the provisions of Article 15 of this Agreement; and

(c) For the purpose of determining responsibility under the provisions of this Article, rolling stock which is being handled between the parties hereto will be considered to be in the possession and control of the party to which it is being delivered when it has been placed on the Setoff Track, the brakes have been properly secured, the engine making the delivery has been uncoupled, and the receiving party has been notified of the placement. The receiving will have the right to inspect and reject any car delivered to it, but until the delivering party has received notice of such rejection and, if the car has been moved from the Setoff Track, the car is returned to the Setoff Track, the car will be considered to remain in the possession of the receiving party.

13. Investigation of Claims. IHRC will investigate, adjust, and defend all claims filed with it for loss or destruction of or damage to lading moving under a contract of carriage and handled between IHRC and WWVR pursuant to this Agreement. IHRC will process such claims in compliance with all applicable laws, government regulations, offering circulars, and transportation contracts. IHRC also will process such claims in compliance with the applicable AAR Rules and Procedures.

14. Insurance. (a) WWVR will procure and maintain in effect during the term of this Agreement a policy or policies of insurance covering the liability to which WWVR is or may be subject under Article 12 of this Agreement. Such insurance will provide minimum limits of Two Million Dollars (\$2,000,000.00) per occurrence but may be subject to an annual aggregate limit of Two Million Dollars (\$2,000,000.00) and a per occurrence deductible not in excess of One Hundred Thousand Dollars (\$100,000.00). WWVR further agrees to immediately give written notice to IHRC of any claim or notice of incident or notice of potential claim that is required to be reported to its liability insurance company.

(b) If the insurance procured by WWVR pursuant to this Article takes the form of a Claims-Made Policy and is canceled or allowed to expire without renewal, WWVR will provide evidence of insurance that provides per occurrence and annual aggregate limits not less than those required pursuant to Paragraph (a) of this Article. Such coverage must be retroactive to the original inception date of the canceled or non-renewed policy.

(c) At any time not less than sixty (60) days prior to an anniversary date of this Agreement, IHRC, in consideration of current and reasonably anticipated claims and litigation costs, may notify WWVR of IHRC's intent to increase the amount of insurance required by this Agreement or to require that the terms and conditions of such insurance be modified. Should WWVR object to any such increase or modification, WWVR and IHRC will attempt in good faith to negotiate a resolution of their disagreement.

If Shortline and Railroad are not able to agree and such disagreement continues for thirty (30) days past the anniversary date of this Agreement, then the matter or matters in disagreement will be submitted to arbitration pursuant to Article 15 hereof.

(d) Each policy of insurance obtained by WWVR pursuant to the requirements of this Article will contain provisions requiring that the insurance carrier give IHRC at least thirty (30) days notice in writing of any proposed policy cancellation or any material modifications of the terms and conditions of any policy of insurance WWVR is required to provide under this Article.

(e) The terms and condition of each policy of insurance obtained by WWVR to satisfy the requirements of this Article will be subject to the approval of IHRC. At least thirty (30) days prior to the effective date of this Agreement pursuant to Article 19 of this Agreement, WWVR will furnish to IHRC an accurate copy of each policy of insurance obtained pursuant to the requirements of this Article. Neither compliance with this requirement nor IHRC's approval of the terms and conditions of any such policy will in any way limit or modify the obligation of WWVR to provide the specific insurance coverage required by this Article.

15. Arbitration. Any claim, dispute, or controversy between IHRC and WWVR arising out of or relating to this Agreement or the breach of this Agreement which cannot be settled by the parties themselves will be determined by arbitration. The

location of the arbitration will be in Indianapolis, Indiana, or other mutually agreed place. The decision of the arbitrator will be final and binding. Any award of monetary relief by the arbitrator will be limited to awarding the prevailing party its actual damages. Judgment to enforce the decision or award of the arbitrator may be entered in any court having jurisdiction. Service of process in connection with such arbitration will be made by certified mail. In any judicial proceeding to enforce this Article, the only issues to be determined will be the existence of an agreement to arbitrate and the failure of one party to comply with such agreement, and those issues will be determined summarily by the court without a jury. All other issues will be decided by the arbitrator, whose decision thereon will be final and binding. There will be no appeal of an order compelling arbitration except as part of an appeal concerning confirmation of the decision of the arbitrator. Each party to the arbitration will pay the compensation, costs, fees, and expenses of its own witnesses, exhibits, and counsel arising from the arbitration. The compensation, costs, and expenses of the arbitrator, if any, will be borne equally by IHRC and WWVR.

16. Assignment and Sole Benefit. (a) This Agreement may be assigned by WWVR only with the written consent of IHRC signed by an authorized officer. To obtain IHRC's consent to such an assignment, WWVR will provide written notice to IHRC of its desire to assign this Agreement, including a letter signed by an authorized officer of the intended assignee stating that the assignee agrees to such assignment and agrees to be bound by all

the terms of such assignment. This Agreement will be binding upon the inure to the benefit of successors and assigns of IHRC and successors and permitted assigns of WWVR.

(b) This Agreement is intended for the sole benefit of the parties hereto, nothing in this Agreement is intended or may be construed to give any person, firm, corporation, or other entity, other than the parties hereto and their respective officers, agents, employees, lessors, parent corporation, subsidiaries, affiliates, successors, and assigns, any right pursuant to any provision or term of this Agreement, and all provisions and terms of this Agreement are and will be for the sole and exclusive benefit of the parties to this Agreement, except as provided in Paragraph (a) of this Article.

17. Non-Waiver. At any time during the term of this Agreement, IHRC or WWVR may waive any default of the other party under this Agreement without affecting or impairing any right arising from any other default under this Agreement.

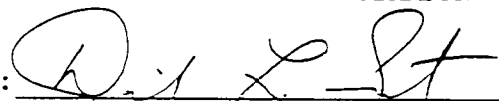
18. Amendment. This Agreement may be modified only by an instrument in writing signed by an authorized officer of IHRC and of WWVR.

19. Effective Date. This Agreement will take effect as of the date of commencement of WWVR's operation of the Line pursuant to the Purchase Agreement and will continue in effect thereafter until such time as IHRC or WWVR terminates this Agreement by serving upon the other sixty (60) days' written notice of its election to do so.

20. Captions. The captions of the articles herein are inserted for convenience only and shall in no way expand, restrict or modify the terms and provisions of any clause hereof.


IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate, each part being an original, as of the day and year first above written.

INDIANA HI-RAIL CORPORATION

BY: 

TITLE: Executive Vice President

WHITEWATER VALLEY RAILROAD

BY: 

TITLE: General Manager

AGREEMENT

THIS AGREEMENT, made and entered into this 8TH day of FEBRUARY, 1990, by and between INDIANA HI-RAIL CORP., hereinafter "IHRC", WHITEWATER VALLEY RAILROAD CO., hereinafter "WWVR", and COHEN BROS. METALS, hereinafter "COHEN"

WITNESSETH:

WHEREAS, "IHRC" and "WWVR" have entered into an agreement dated December 13, 1989, providing for the purchase by "WWVR" of certain trackage and real estate of the "IHRC"; and

WHEREAS, "IHRC" has agreed to allow the "WWVR" a per revenue car allowance of \$150 for each revenue car handled by "WWVR" routed to the CSXT at Connersville, Indiana; and

WHEREAS, in consideration for financial assistance received from "COHEN" in conjunction with the line purchase, "WWVR" desires to have the per revenue car allowance for the first thirty-six (36) revenue cars paid directly to "COHEN";

NOW THEREFORE, the parties hereto, intending to be legally bound, agree as follows:

1. "IHRC" shall cause to be paid to "COHEN" on a monthly basis the per revenue car allowance for each received revenue car destined for CSXT at Connersville, Indiana.
2. Payment by "IHRC" shall be made within thirty (30) days of the close of the previous calendar month.
3. Payment by "IHRC" shall be sent by US Mail, postage prepaid to the address of "COHEN" as provided in the Agreement.
4. "IHRC" shall provide "WWVR" and "COHEN" with a copy of the summary record governing the allowance paid to "COHEN".
5. "IHRC" shall not pay any allowance on any revenue car destined to CSXT at Connersville, Indiana, when the "IHRC" revenue is less than \$323.00 dollars for that car.
6. "IHRC" shall allow \$50.00 per car on cars destined for interchange on "IHRC" at New Castle, Indiana, when "IHRC" revenue for that car is not less than \$370.00.
7. Discrepancies in any monthly settlements shall be handled on the next current monthly settlement.

8. "IHRC" charges as outlined in its Tariff Series 8000 shall be assessed against "COHEN" directly, when any such services are performed, and no sharing allowance shall be made to "WWVR" or "COHEN" for charges collected.

9. The mailing addresses of each party to this Agreement for all notices, payments, etc. shall be:

- a.) "IHRC": INDIANA HI-RAIL CORP.
EXECUTIVE VICE PRES.
RT. 1
CONNERSVILLE, IN 47331
- b.) "WWVR": WHITEWATER VALLEY RAILROAD
P.O. BOX 406
CONNERSVILLE, IN 47331
- c.) "COHEN": COHEN BROS. METALS
P.O. BOX 326
CONNERSVILLE, IN 47331

10. This Agreement shall become effective upon the first date of transfer of operation on the line from "IHRC" to "WWVR" and shall continue in full force and effect until either:

- (a) A sum total of five thousand four hundred dollars (\$5400) shall have been paid by "IHRC" to "COHEN",
or
- (b) One calendar year after the effective date, whichever event shall have first occurred, however, termination of this Agreement shall not relieve or release any party hereto from any liability it may have accrued under any provision of this Agreement prior to said termination.

11. No item or provision of this Agreement may be changed, waived, discharged, or terminated except by an instrument in writing signed by the parties hereto.

12. This Agreement and each and every provision hereof are for the exclusive benefit of the parties hereto and not for the benefit of any other parties. Nothing contained herein shall be taken as creating or increasing any right in any third person to recover by way of damages or otherwise against any of the parties hereto.

13. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto. Neither party hereto shall assign or transfer this Agreement or any of its rights hereunder to any person, firm or corporation, other than a successor, assign, purchaser or transferor of the transferring party, without obtaining the prior written consent of the other party, which consent shall not be unreasonably withheld.

14. If any term, covenant, condition or provision (or part thereof) of this Agreement or the application thereof to any party or circumstance shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision (or remainder thereof) to parties or circumstances other than those as to which it is held invalid, or unenforceable, shall not be affected thereby, and each term, covenant, condition and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

15. This Agreement shall be enforceable under the laws of the State of Indiana.

IN WITNESS THEREOF, THE PARTIES hereto have caused this AGREEMENT to be made, and executed by their respective duly authorized officials.

Witness:

Kimberly A Brown

INDIANA HI-RAIL CORP.

By [Signature]

Its EXECUTIVE VICE PRESIDENT

Witness:

Myra D. Fabeu

WHITEWATER VALLEY RAILROAD

By [Signature]

Its President

Witness:

Myra D. Fabeu

SCOHEN BROS. METALS

By [Signature]

Its General Manager

AGRMT No

I 81 004

CONDITIONAL SALE AGREEMENT

Indiana Hi-Rail Corp., a Corporation existing under the laws of the State of Indiana (Seller), and Whitewater Valley Railroad, a NOT FOR PROFIT CORP existing under the laws of the State of INDIANA (Buyer).

For good consideration it is agreed between the parties that:

1. Seller agrees to sell, and Buyer agrees to buy the following described property:

All of the part of Seller's Connersville - Beesons rail line segment between M.P. 69.0 and M.P. 67.9 in Fayette County, Indiana, including: right-of-way, track structure, culverts, bridges, crossings, easements, signals and real-estate.

2. Buyer agrees to pay to Seller the total purchase price of \$60,000 cash and one tie handler identified as RTW Model TH 2170 Serial No. 28; payable as follows:

\$12,000.00 deposit herewith
\$48,000.00 balance by cash or certified check at
time of transfer
Tie Handler (RTW Model TH 2170 - Serial No. 28)
to be transferred at closing

3. Seller warrants it has full authority to sell the property described, and that said property shall be sold free and clear of all liens, encumbrances, and claims.

4. Seller agrees to provide Buyer with a Quit-Claim Deed at time of transfer.

5. Seller agrees to complete the work currently in progress on Indiana Department of Highway Project generally known as the Grand Avenue extension.


6. Except as specified in paragraph 5 above, the property is sold in "as-is" condition, Seller disclaiming any warranty of merchantability or working order or condition of the property except that it shall be sold in its present condition.

7. The parties agree to transfer title no later than December 29, 1989, at the address of the Seller.

8. The Agreement shall be binding and inure to the benefit of the parties, their successors, assigns and personal representatives.


9. Buyer's failure to close by December 29, 1989, will result in forfeiture of deposit.

Signed under seal this 13th day of DECEMBER, 1989.



Buyer

Whitewater Valley Railroad
P.O. Box 406
Connersville, IN 47331



Seller **EXECUTIVE VICE PRES.**
Indiana Hi-Rail Corporation
R.R. #1
Connersville, IN 47331

FIRST AMENDMENT TO
CONDITIONAL SALE AGREEMENT

Among Indiana Hi-Rail Corporation and
The Whitewater Valley Railroad Company

WHEREAS, the Indiana Hi-Rail Corporation (Seller) and the Whitewater Valley Railroad Company (Buyer), entered into an Agreement dated December 13, 1989, providing for the sell and purchase of 1.1 track miles of rail line in Fayette County, State of Indiana; and

WHEREAS, Seller and Buyer, have agreed to certain changes in the mutual interest of the Seller and Buyer.

NOW THEREFORE, Seller and Buyer agree to the following First Amendment to the AGREEMENT dated December 13, 1989.

Section 2. Buyer agrees to pay to Seller the total purchase price of \$60,000 cash and one tie handler identified as RTW Model TH 2170 Serial No. 28; payable as follows:

\$12,000.00 deposit with execution of AGREEMENT dated December 13, 1989.

~~\$25,000~~ ~~\$33,000.00~~ deposit with execution of this FIRST AMENDMENT to the Agreement herewith.

\$15,000.00 balance by cash or certified check at time of transfer.

Tie Handler (RTW Model TH 2170 - Serial No. 28) to be transferred on or before February 10, 1990.

\$5,000 deposit by JANUARY 19, 1990.

Section 4. Seller agrees to deposit in escrow a fully executed Quit-Claim Deed for Buyer to receive upon payment of balance. The Quit-Claim Deed shall be held by the Seller and upon receipt of balance as described in Section 2 of this Amendment Agreement, he shall transfer said Deed to Buyer.

Section 7. The parties agree to transfer title no later than February 24, 1990, at the address of the Seller, State Road One North, Connersville, Indiana, 47331.

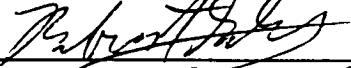
Section 9. Buyer's failure to close by February 24, 1990, will result in forfeiture of all deposits and the RTW Model TH 2170 Tie Handler, Serial No. 28.

DLS
RLG

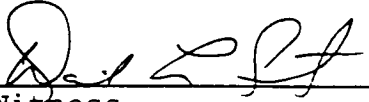
IN WITNESS THEREOF, SELLER and BUYER hereto have caused this Agreement to be made, effective and executed by their respective duly authorized officials.

Signed this 12TH day of JANUARY, 1990.

WHITEWATER VALLEY RAILROAD

By: 

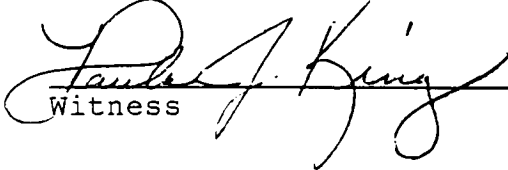
Title: General Manager


Witness

INDIANA HI-RAIL CORPORATION

By: 

Title: EXECUTIVE VICE PRESIDENT


Witness



INDIANA HI - RAIL CORPORATION

Rural Route 1, Box 242

Connersville, Indiana 47331

October 16, 1989
U.S. Mail-Certified

Mr. Robert Gold
General Manager
Whitewater Valley Railroad
P.O. Box 406
Connersville, In 47331

Dear Mr. Gold:

In response to your letter dated October 13, 1989, governing your offer for the purchase of our rail line between M.P. 69.0 and M.P. 67.9 in Fayette County, Indiana.

After reviewing your offer we believe an Agreement is possible if the following values are added:

(1) Our review of property title and deeds indicates that our Corporation still holds title to the right-of-way between 1st Street (SR 121) and Eastern Avenue consisting of approximately 1.7 acres. This is sister property to the 2.38 acres purchased by the City of Connersville, Indiana, for the Grand Avenue Project in 1986. The value of that property was \$3500 per acre, therefore the 1.7 acres would be \$5,950.00 which will be added to the NLV.

(2) Your proposal listing the salvage material inadvertinly left off the value of the cantilever signals at SR 44. The material was installed new this calender year with a new material cost of \$23,109.00 (material only, no freight or installation) a 60% salvage value would make the NLV \$13,865.00 which adds to the NLV.

The inclusion of these two items reflects a revised net liquidation value of \$69,815.00, which is acceptable by Indiana Hi-Rail Corporation for this rail line.

We are agreeable to adjusting our switch fee with a \$150 per car reduction for movement to CSX, which would be available to the Whitewater Valley Railroad for their handling cars to interchange with IHRC at M.P. 69.0. Additionally, we are willing to enter into an Agreement where-by non-revenue cars handled to or from CSX for account of the WWV RR would be handled free-on-line.

"Shippers & Service are 'Hi' priority with us"

Mr. Robert Gold
October 16, 1989
Page 2

Movements to NS at New Castle, Indiana, would be handled for the published tariff rate (currently \$356 per car), this necessitated because of our lease arrangement with NS. Your Company would have to arrange to collect a fee for handling cars routed to NS at New Castle, Indiana.

This offer is extended to 5:00 pm, October 20, 1989. If no reply is received by that time and date at the above address, it will be assumed that this offer is rejected and we will there upon proceed with dismantling plans.

Respectfully,

A handwritten signature in cursive script, appearing to read "R Powell Felix".

R. Powell Felix
President

RPF/arn



INDIANA HI - RAIL CORPORATION

Rural Route 1, St. Rd. 1 North
Connersville, Indiana 47331

Phone (317) 825-0349
Fax (317) 825-0453

January 8, 1990

Mr. John Alexander
Urdal, Tarvin, & Alexander
500 Central Avenue
Connersville, IN 47331

Dear Mr. Alexander:

Indiana Hi-Rail Corp. and the Whitewater Valley Railroad Company have entered into and agreed to the sell and purchase (respectfully) a certain rail line and underlying real estate in Fayette County, Indiana.

In conjunction with this sell and transfer the parties mutually desire to have the Deed to the rail line and real estate held in escrow until the final payment is made to complete the transaction (scheduled to be February 23, 1990, or earlier).

Therefore, both parties hereby authorize you to serve as escrow agent for this Deed. Upon notification by Indiana Hi-Rail Corp. (Seller) that final payment has been received from Whitewater Valley Railroad (Buyer) you will release the Deed to the Buyer. This notification will be in writing.

These instructions are respectfully submitted.

Indiana Hi-Rail Corp.

by 

its Executive Vice President

Whitewater Valley Railroad

by 

its 



INDIANA HI-RAIL CORPORATION
R.R. #1
CONNERSVILLE, IN 47331



I N V O I C E

TO: WHITEWATER VALLEY RAILROAD

INVOICE NO.: L8904

PO BOX 406

INVOICE DATE: 12 / 13 / 89

CONNERSVILLE, IN 47331

IHRC ACCT. NO.: 9915 - 00 - 00

JOB LOCATION: CONNERSVILLE, IN

JOB DESCRIPTION:

DEPOSIT ON PURCHASE OF RAILROAD TRACK, STRUCTURES, AND RIGHT-OF-WAY
BETWEEN MP 69.0 AND MP 67.9 FAYETTE COUNTY CV-BE LINE SEGMENT

CAR INIT. & NO.	QUANTITY	DESCRIPTION	PRICE	AMOUNT
		DEPOSIT		12,000.00

REMARKS

SUB-TOTAL

BALANCE OF PURCHASE PRICE \$48,000 CASH AND

DISCOUNT

ONE TIE HANDLER WILL BE PAID PURSUANT TO

OTHER

TERMS OF SALE AGREEMENT.

TOTAL DUE 12,000.00

MEMO

PLEASE REMIT TO: INDIANA HI-RAIL CORPORATION

NET AFTER
MEMO

R.R. #1
CONNERSVILLE, IN 47331

DIRECT INQUIRIES TO: (317) 825-0349

PREPARED BY: D.L. SMOOT 

DATE: 12 / 13 / 89

DATE RECEIVED: _____

IHRC DEPOSIT NO.: _____



INDIANA HI-RAIL CORPORATION
R.R. #1
CONNERSVILLE, IN 47331



I N V O I C E

TO: Whitewater Valley Railroad
PO Box 406
Connerville, IN 47331

INVOICE NO.: L 8904
INVOICE DATE: 12 / 13 / 89
IHRC ACCT. NO.:
JOB LOCATION: Connerville IN

JOB DESCRIPTION: Purchase of IHRC R/W between
MP 69.0 and 67.9 Fayette County, IN

CAR INIT. & NO.	QUANTITY	DESCRIPTION	PRICE	AMOUNT
		TOTAL PRICE (CASH)		60,000.00
	1	RTW TIE HANDLER		
		MODEL TH 2170		
		SERIAL NO. 28		

ARKS

SUB-TOTAL 60,000.00

MEMO = 20% DEPOSIT

DISCOUNT

NET DUE PER TERMS OF AGENT, -
IN FULL BY CLOSING.

OTHER

TOTAL DUE 60,000.00

MEMO 12,000.00

PLEASE REMIT TO: INDIANA HI-RAIL CORPORATION
R.R. #1
CONNERSVILLE, IN 47331
DIRECT INQUIRIES TO: (317) 825-0349

NET AFTER
MEMO 48,000.00

PREPARED BY: D.L. SMOUT

DATE: 12 / 13 / 89

DATE RECEIVED: / /

IHRC DEPOSIT NO.:

45,000
Less 12,000
33,000 - Bal.
15,000 -



INDIANA HI - RAIL CORPORATION

MEMORANDUM TO FILE

TO FILE: Whitewater Valley RR

DATE: 12-13 1989 TIME: _____ AP

FROM: _____ LOCATION: _____

MEMORANDUM:

48,000 Bal.

@ Closing

\$ 33,000

Feb. 28-'90

\$ 15,000 00%

on a Note

1% / mo. ?

David,

Please set up a
receivable invoice

Janet

E MESSAGE.
LE RECORD.



INDIANA HI - RAIL CORPORATION

Rural Route 1, St. Rd. 1 North
Connersville, Indiana 47331

Phone (317) 825-0349
Fax (317) 825-0453

October 20, 1989

Mayor Len Bastian
City of Connersville
City Hall
Connersville, IN 47331

Gregg M. O'Maley
Attorney
HSOBB-Attorneys at Law
200 West End Savings Bank
Richmond, IN 47374

Gentlemen:

On, Wednesday, October 18, 1989, Mr. Robert Gold (General Manager - Whitewater Valley Railroad), Powell Felix (President of Indiana Hi-Rail) and myself had a meeting with regard to the 1.1 mile of IHRC's Connersville line which is proposed for retirement by IHRC.

During the meeting the parties discussed the Net Liquidation Value of the line as determined by Indiana Hi-Rail. We have established a price of \$69,815.00. Mr. Gold indicated that the Whitewater Valley Railroad was working on raising approximately \$50,000.00 toward the purchase of the line. This leaves a shortage of \$19,815.00, which would require other sources of funding. Mr. Gold implied that the Whitewater Valley Railroad was in no position to offer more than \$50,000.00, but if other sources for the balance could be located they had no objection to closing the transaction at \$69,815.00. Indiana Hi-Rail advised that we are not willing to accept less than \$69,815.00, but we are agreeable to assist in the location of funding sources.

Both parties believe that working together on locating the Net Liquidation Value funding as established by Indiana Hi-Rail is more advantageous than paying legal and court fees in fighting over what the NLV of the line segment might be under condemnation proceedings. Such action would also likely lead to adversarial future relations between the parties.

"Shippers & Service are 'Hi' priority with us"



INDIANA HI - RAIL CORPORATION

Rural Route 1, St. Rd. 1 North
Connersville, Indiana 47331

Phone (317) 825-0349
Fax (317) 825-0453

November 30, 1989

Mr. Robert Gold
Whitewater Valley Railroad
P.O. Box 406
Connersville, IN 47331

Dear Mr. Gold:

Per our recent phone conversation concerning the transfer of the trackage between MP 69.0 and MP 67.9 in Fayette County, Indiana.

I have enclosed a draft Agreement governing the terms of the sale to your Company. If the Agreement is acceptable please sign and return with your 20% deposit no later than December 8, 1989.

In the interim we will prepare a quit claim deed, secure necessary releases, and prepare a closing statement. All of these documents should be ready by December 18, 1989, and it remains our intent to close this transaction by December 31, 1989.

If you have any questions or comments please do not hesitate to contact me.

Respectfully,

A handwritten signature in black ink, appearing to read "David L. Smoot".

David L. Smoot
Executive Vice President

Enclosure

DLS/arn

CONDITIONAL SALE AGREEMENT

Indiana Hi-Rail Corp., a Corporation existing under the laws of the State of Indiana (Seller), and Whitewater Valley Railroad, a _____ existing under the laws of the State of _____ (Buyer).

For good consideration it is agreed between the parties that:

1. Seller agrees to sell, and Buyer agrees to buy the following described property:

All of the part of Seller's Connersville - Beesons rail line segment between M.P. 69.0 and M.P. 67.9 in Fayette County, Indiana, including: right-of-way, track structure, culverts, bridges, crossings, easements, signals and real-estate.

2. Buyer agrees to pay to Seller the total purchase price of \$60,000 cash and one tie handler identified as RTW Model TH 2170 Serial No. 28; payable as follows:

\$12,000.00 deposit herewith
\$48,000.00 balance by cash or certified check at
time of transfer
Tie Handler (RTW Model TH 2170 - Serial No. 28)
to be transferred at closing

3. Seller warrants it has full authority to sell the property described, and that said property shall be sold free and clear of all liens, encumbrances, and claims.

4. Seller agrees to provide Buyer with a Quit-Claim Deed at time of transfer.

5. Seller agrees to complete the work currently in progress on Indiana Department of Highway Project generally known as the Grand Avenue extension.

6. Except as specified in paragraph 5 above, the property is sold in "as-is" condition, Seller disclaiming any warranty of merchantability or working order or condition of the property except that it shall be sold in its present condition.

7. The parties agree to transfer title no later than December 29, 1989, at the address of the Seller.

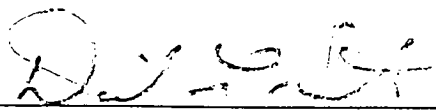
8. The Agreement shall be binding and inure to the benefit of the parties, their successors, assigns and personal representatives.

9. Buyer's failure to close by December 29, 1989, will result in forfeiture of deposit.

Signed under seal this _____ day of _____,
1989.

Buyer

Whitewater Valley Railroad
P.O. Box 406
Connersville, IN 47331



Seller *EXECUTIVE VICE PRES,*

Indiana Hi-Rail Corporation
R.R. #1
Connersville, IN 47331

QUIT CLAIM DEED

IHRFC-00001

Indiana Hi-Rail Corporation of Fayette County, Indiana, an Indiana Corporation, conveys, releases, and quit-claims to the Whitewater Valley Railroad Company, an Indiana Not-for-Profit Corporation, with a mailing address of P.O. Box 406, Connersville, Indiana, 47331, for the sum of one dollar (\$1.00) and other valuable and sufficient consideration, the receipt whereof is hereby acknowledged, the following described real estate in the County of Fayette, State of Indiana, to wit:

ALL THAT CERTAIN piece, strip or parcel of land, together with track and appurtenances thereon, situated in Fayette County, State of Indiana, being a portion of the right-of-way of railroad of Indiana Hi-Rail Corporation, known as the Connersville - Beesons line segment, being all that real property lying in, under, above, along, continuous to and adjacent to that part of the railroad lying between the following two (2) described lines:

BEGINNING 1) a line at right angles to center line station 3581+80, being the existing lateral cut line between Indiana Hi-Rail Corporation and the Whitewater Valley Railroad Company MP 67.8 in Fayette County, Indiana, and extending 2) to a line drawn at right angles to center line station 3643+58, MP 69.0 in Fayette County, Indiana.

The portion of the same premises which Consolidated Rail Corporation by quit-claim deed dated December 2, 1981, and recorded in the Records Office of Fayette County, Indiana, and Records Office of Wayne County, Indiana; granted and conveyed unto Indiana Hi-Rail Corporation.

SUBJECT, however, to (1) whatever rights the State of Indiana, Local Municipalities and public may have to use any roads, streets, alleys or ways which may cross the hereinbefore described premises; (2) any streams or water ways passing under, over, across or through the hereinbefore described premises; and (3) any easements or agreements of record or otherwise affecting the land hereby conveyed, and to the state of facts which a personal inspection or accurate survey would disclose, and to any pipes, wires, poles, cables, culverts, drainage courses or systems and their appurtenances now existing and remaining in, on, under, over, across and through the herein conveyed premises, together with the right to maintain, repair, renew, replace, use and remove same.

Possession of said real estate shall be given immediately.

The 1989 taxes due and payable in 1990 shall be paid by the Seller, the 1990 taxes due and payable in 1991 shall be paid by the Buyer.

The undersigned person executing this deed on behalf of grantor represents and certifies that he is a duly elected officer of grantor and has been fully empowered by proper resolution of the Board of Directors of Grantor to execute and deliver this deed; that grantor has full corporate capacity to convey the real estate described herein; and that all necessary corporate action for the making of such conveyance has been taken

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with track and appurtenances thereon, situated in Fayette County, State of Indiana, being a portion of the right-of-way of railroad of Indiana Hi-Rail Corporation, known as the Connersville - Beesons line segment, being all that real property lying in under, above, along, continuous to and adjacent to that part of the railroad lying between the following two (2) described lines:

BEGINNING 1) a line at right angles to center line station 3581+80, being the existing lateral cut line between Indiana Hi-Rail Corporation and the Whitewater Valley Railroad Company MP 67.9 in Fayette County, Indiana, and extending 2) to a line drawn at right angles to center line station 3643+58, MP 69.0 in Fayette County, Indiana.

BEING a portion of the same premises which Consolidated Rail Corporation by quit-claim deed dated December 8, 1981, and recorded in the Records Office of Fayette County, Indiana, and Records Office of Wayne County, Indiana; granted and conveyed unto Indiana Hi-Rail Corporation.

SUBJECT, however, to (1) whatever rights the State of Indiana, Local Municipalities and public may have to use any roads, streets, alleys or ways which may cross the hereinbefore described premises; (2) any streams or water ways passing under, over, across, or through the hereinbefore described premises; and (3) all easements or agreements of record or otherwise affecting the same hereby conveyed, and to the state of facts which a person's inspection or accurate survey would disclose, and to any pipes, wires, poles, cables, culverts, drainage courses or systems and their appurtenances now existing and remaining in, on, under, over, across and through the herein conveyed premises, together with the right to maintain, repair, renew, replace, use and remove same.

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The undersigned person executing this deed on behalf of grantor represents and certifies that he is a duly elected officer of grantor and has been fully empowered by proper resolution of the Board of Directors of Grantor to execute and deliver this deed; that grantor has full corporate capacity to convey the real estate described herein; and that all necessary corporate action for the making of such conveyance has been taken and done.

Grantor herein says there is no Indiana Gross Income Tax due on the proceeds received from the transfer of said real estate described herein at the time of such transfer.

THIS INSTRUMENT is executed, delivered and accepted upon the understanding and agreement that should a claim adverse to the title hereby quit claimed be asserted and/or proved, no recourse shall be had against the Grantor herein.

IN WITNESS WHEREOF the said Grantor has here unto set its hand and seal this 20th day of February, 1990.

INDIANA HI-RAIL CORPORATION

By: R. Powell Felix

R. Powell Felix, President
Indiana Hi-Rail Corp.

(Seal)

STATE OF INDIANA, COUNTY OF FAYETTE, SS

Before me, the undersigned, a Notary Public, in and for said State of Indiana, and residing in Fayette County, Indiana, on the 20th day of February, 1990, personally appeared Indiana Hi-Rail Corporation by R. Powell Felix, its President, and acknowledged the execution of the foregoing Quit-Claim Deed.

My Commission Expires

September 4, 1990

Kimberly Ann Brown

Kimberly Ann Brown

Notary Public

This Instrument prepared by David L. Smoot, Executive Vice President, Indiana Hi-Rail Corporation.

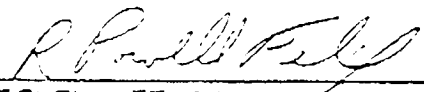
RESOLUTION No 8912

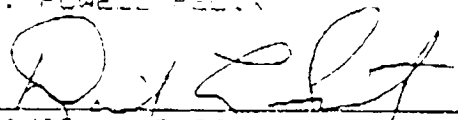
INDIANA HI-RAIL CORPORATION

RESOLUTION OF THE BOARD OF DIRECTORS

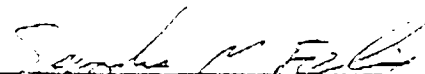
BE IT RESOLVED, That David L. Smoot, Executive Vice President is hereby given the power and authority to sell and dispose of the Corporation's right of way, track, and structures between Mile Post 67.0 and M.P. 67.9 on the Corporation's Connersville - Seasons line segment. Authorization to enter into agreements for the sale and listing of this property is hereby granted.

BY THE DIRECTORS:


R. POWELL FELIX

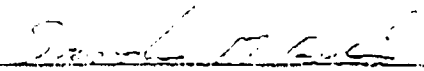

DAVID L. SMOOT


GARY J. GOODMAN


SANDRA M. FELIX

I, Sandra M. Felix, do hereby certify that I am the duly elected and qualified Secretary and the keeper of the records and corporate seal of Indiana Hi-Rail Corporation, a corporation organized and existing under the laws of the State of Indiana, and that the above is a true and correct copy of a resolution duly adopted at a meeting of the Board of Directors thereof, convened and held in accordance with law and the Bylaws of said Corporation on November 3, 1989, and that such resolution is now in full force and effect.

IN WITNESS WHEREOF, I have affixed my name as Secretary and have caused the corporate seal of said Corporation to be hereunto affixed, this 6th day of November, 1989.


SECRETARY

AGREEMENT

This Agreement is made and entered into this twentieth day of June, 1995, by and between Indiana Hi-Rail Corporation, an Indiana Corporation (hereinafter "IHRC"), and Whitewater Valley Railroad, and Indiana Corporation (hereinafter "WVRR").


IHRC agrees to furnish classroom and field training required by the F.R.A. for the WVRR Engineer Certification Program.

WVRR agrees to provide trackage rights to IHRC to directly serve Cohen Brothers Metals. Trackage rights will be provided at no charge to IHRC from June 2, 1995, through December 31, 1997, in exchange for the Engineer Certification Program furnished by IHRC.

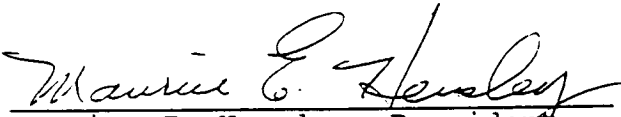
A separate trackage rights agreement covering this period of time will be executed between WVRR and IHRC.

In witness whereof, the parties hereto have caused this agreement to be executed in duplicate, each part being an original, as of the day and year first above written.

Signature: _____


R. Franklin Unger - Trustee
Indiana Hi-Rail Corporation

Signature: _____


Maurice E. Hensley, President
Whitewater Valley Railroad

FEDERAL RAILROAD ADMINISTRATION
Office of Chief Counsel
1120 Vermont Avenue, N.W., Mail Stop 10
Washington, D.C. 20590

FRA's Jurisdiction over Tourist Railroads Carriers

FRA's authority to regulate railroads arises from Title 49 of the United States Code § 20103 which gives the agency plenary authority over "every area of railroad safety." 49 U.S.C. § 20103. "Railroad" is defined by the act as "all forms of non-highway ground transportation that run on rails or electromagnetic guideways...." 49 U.S.C. § 20102(1). The definition excludes only rapid transit systems that operate in urban areas and are not connected to the general railroad system of transportation.¹ "Railroad carrier" is defined by the statute as "a person providing railroad transportation." 49 U.S.C. § 20102(2).

For resource and policy reasons, FRA does not extend the reach of most of its regulations as far as the statute permits. (See 49 C.F.R. Part 209, Appendix A.) In an effort to clarify the proper extent of the exercise of FRA's jurisdiction, we have recently settled on several principles that we will use as our current guidelines.

We will exercise jurisdiction over all tourist operations, whether or not they operate over the general railroad system, except those that are (1) less than 24 inches in gage and/or (2) insular. Operations with less than 24-inch gage have never been considered railroads under the Federal railroad safety laws and are generally considered miniature or imitation railroads.

We will consider a tourist operation insular if its operations are limited to a separate enclave in such a way that there is no reasonable expectation that the safety of any member of the public — except a business guest, a licensee of the tourist operation or an affiliated entity, or a trespasser — would be affected by the operation. An operation will not be considered insular if one or more of the following exists on its line:

- a public highway-rail crossing that is in use;
- an at-grade rail crossing that is in use;
- a bridge over a public road or waters used for commercial navigation; or
- a common corridor with a railroad, i.e., its operations are within 30 feet of those of any railroad.

Thus, the mere fact that a tourist operation is not connected to the general railroad system would not make it insular under these criteria. While these criteria will tend to sort out the insular theme parks and museums, there will still be a need to do case-by-case analysis in some close situations.

¹"General railroad system of transportation" is defined at 49 C.F.R. Part 209, Appendix A as: "the network of standard gage railroads over which the interchange of goods and passengers throughout the nation is possible."

February, 2002

EXHIBIT C

How the safety regulations apply:

Tourist railroads are not required to comply with 49 C.F.R. Part 238 (passenger equipment safety) or Part 239 (passenger train emergency preparedness). Tourist railroads that operate on the general system must comply with all statutes and all other regulations unless and until any appropriate waiver has been applied for and granted. Of course, FRA generally lacks authority to waive statutory requirements.

Some tourist railroads are neither insular nor part of the general system (i.e., stand-alone lines with no freight traffic). For these railroads, only the following regulations and statutory provisions apply:

- 49 U.S.C. §§ 20102, 20301- 20303, 20502-20505, 20701, 20902, 21302, 21304 (formerly 45 U.S.C §§ 1, 2, 4, 9, 11 of the Safety Appliance Act and 45 U.S.C. 22 *et seq.* of the Locomotive Inspection Act);
- Federal signal inspection laws, 49 U.S.C. §§ 20102, 20502-20505, 20902, 21302, 21304;
- Hazardous materials regulations (49 C.F.R. Parts 171-179);
- FRA's procedural regulations at 49 C.F.R. Parts 209, 211, and 216;
- Noise emission regulations (49 C.F.R. Part 210): but note that the regulations do not apply to steam locomotives;
- Freight car safety standards (49 C.F.R. Part 215) applicable only to standard gage lines;
- Accident/incident reporting regulations (49 C.F.R. Part 225);
- Hours of Service restrictions on duty hours;
- Steam locomotive inspection regulations (49 C.F.R. Part 230);
- Grade crossing signal system safety regulations (49 C.F.R. Part 234);
- User fee requirements (49 C.F.R. Part 245);
- All general power and enforcement provisions of the rail safety statutes (e.g., subpoena authority, civil penalty authority, disqualification authority, and emergency order authority).

Thus, there are many FRA regulations that do not presently apply to tourist railroads that are not operated over the general system. However, FRA's emergency order authority permits it to address a true safety emergency arising from conditions (e.g., the proper functioning of air brakes) covered by those regulations or any other regulations (e.g., the track safety standards) that do not apply outside of the general system. Thus, even off-the-system tourist railroads should understand that FRA has

February, 2003

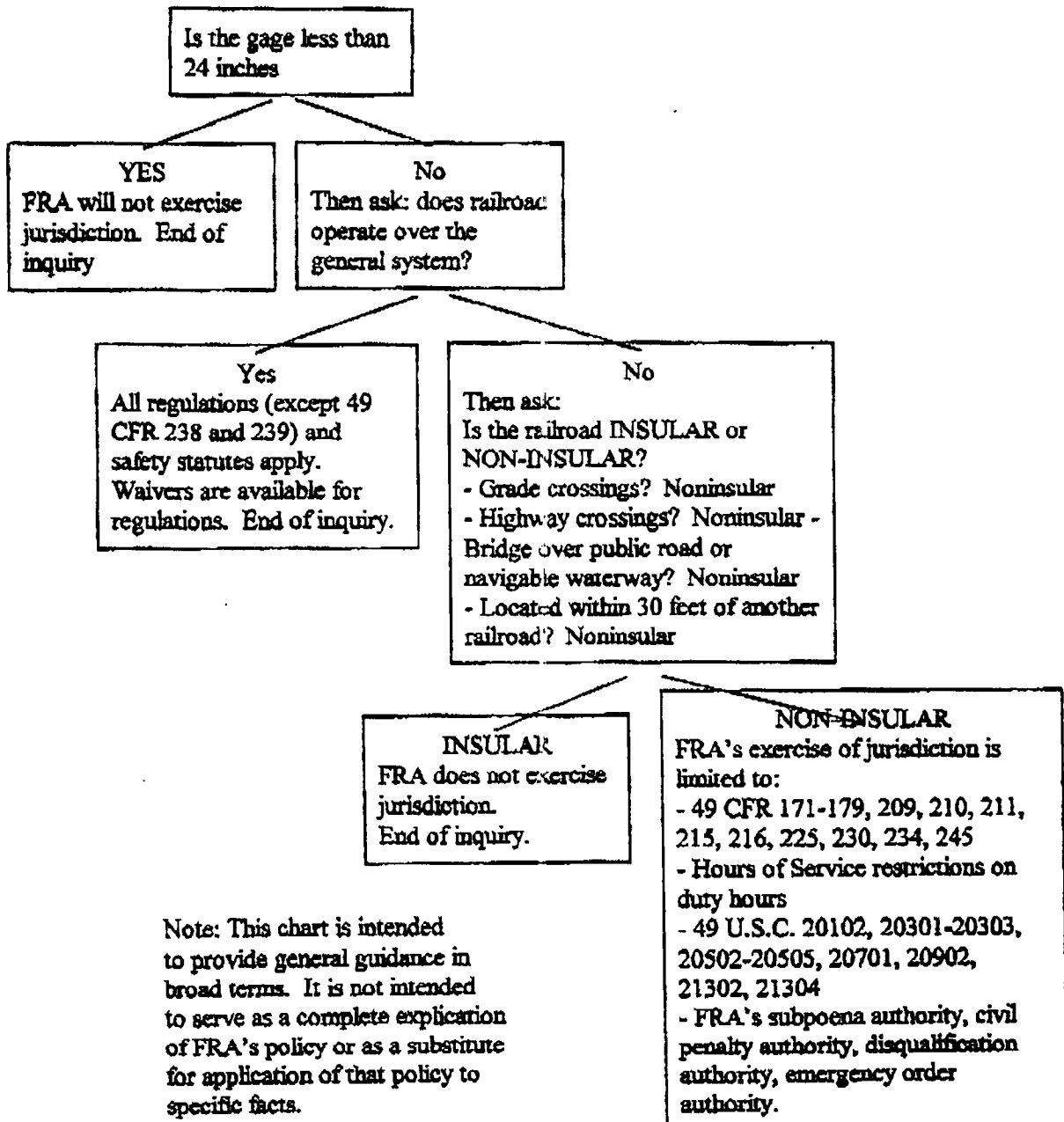
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jurisdiction to inspect their operations and to take emergency action if those operations pose an imminent hazard of death or injury.

February, 2002

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Tourist Railroads FRA's Exercise of Jurisdiction Decision Tree



December, 2001

CERTIFICATE OF SERVICE

I hereby certify that I have this 27th day of October, 2005 served a copy of the Petition of RMW Ventures, LLC and C&NC Railroad Corporation for Expedited Confirmation and Correction Regarding Rail Common Carrier Service Rights to Integrity Metals, Inc. upon the following by first class United States Mail, postage prepaid:

Karyn A. Booth, Esq.
Thompson Hine, LLP
1920 N Street, N.W.
Washington, DC 20036-1600


Richard R. Wilson, Esq.